

## § 970.17

conditions as determined by HUD environmental review in accord with 24 CFR part 50, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use; or

(iii) There are other factors that have seriously affected the marketability, usefulness, or management of the property.

(2) HUD generally shall not consider a program of modifications to be cost-effective if the costs of such program exceed 62.5 percent of total development cost (TDC) for elevator structures and 57.14 percent of TDC for all other types of structures in effect at the time the application is submitted to HUD.

(c) As to paragraph (a)(2) of this section, a partial demolition will be considered to ensure the viability of the remaining portion if the application certifies that the demolition will reduce development density to permit better access by emergency, fire, or rescue services, or improve marketability by reducing the density to that of the neighborhood or other developments in the PHA's inventory.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

### § 970.17 Specific criteria for HUD approval of disposition requests.

In addition to other applicable requirements of this part, HUD will approve a request for disposition by sale or other transfer of a public housing project or other real property if the PHA certifies that the retention of the property is not in the best interests of the residents or the PHA for at least one of the following reasons, unless information available to HUD is inconsistent with the certification:

(a) Conditions in the area surrounding the project (density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA;

(b) Disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing developments;

(c) The PHA has otherwise determined the disposition to be appropriate

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for reasons that are consistent with the goals of the PHA and the PHA Plan and that are otherwise consistent with the Act;

(d) In the case of disposition of property other than dwelling units (community facilities or vacant land), the PHA certifies that:

(1) The non-dwelling facilities or land exceeds the needs of the development (after DOFA); or

(2) The disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the development.

### § 970.19 Disposition of property; use of proceeds.

(a) Where HUD approves the disposition of real property of a development, in whole or in part, the PHA shall dispose of the property promptly for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless HUD authorizes negotiated sale for reasons found to be in the best interests of the PHA or the federal government; or dispose of the property for sale for less than fair market value (where permitted by state law), based on commensurate public benefits to the community, the PHA, or the federal government justifying such an exception. General public improvements, such as streets and bridges, do not qualify as commensurate public benefits.

(b) A PHA may pay the reasonable costs of disposition, and of relocation of displaced tenants allowable under § 970.21, out of the gross proceeds, as approved by HUD.

(c) To obtain an estimate of the fair market value before the property is advertised for bid, the PHA shall have one independent appraisal performed on the property proposed for disposition, unless HUD determines that:

(1) More than one appraisal is warranted; or

(2) Another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data.

(d) To obtain an estimate of the fair market value when a property is not publicly advertised for bid, HUD may